

## SENATE BILL No. 156

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-2-7.

**Synopsis:** Office of inspector general. Creates the office of inspector general to investigate various activities of the office of the secretary of family and social services, the department of administration, the department of correction, the department of workforce development, and the bureau of motor vehicles. Appropriates an amount sufficient to run the office for the fiscal year beginning July 1, 2004.

**Effective:** July 1, 2004.

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January 6, 2004, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 156

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A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 4-2-7 IS ADDED TO THE INDIANA CODE AS  
2       A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3       1, 2004]:

4       **Chapter 7. Inspector General**

5       **Sec. 1. For purposes of this chapter, "office" refers to the office**  
6       **of the inspector general established by section 2 of this chapter.**

7       **Sec 2. (a) The office of the inspector general is established.**

8       **(b) The office shall be administered by the inspector general,**  
9       **who shall be appointed by the governor under section 3 of this**  
10       **chapter.**

11       **Sec. 3. (a) As used in this section, "committee" refers to the**  
12       **nominating committee established by section 4 of this chapter.**

13       **(b) As used in this section, "vacancy" refers to an opening in the**  
14       **office of the inspector general that occurs by reason of death,**  
15       **retirement, resignation, removal, or expiration of term without**  
16       **reappointment.**

17       **(c) When a vacancy occurs in the office, the governor shall**



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promptly notify the chair of the committee of the vacancy. The chair shall call a meeting of the committee not later than ten (10) days after the notice.

(d) The committee shall consider applicants for the office of inspector general who have significant experience in:

- (1) law enforcement, including a local or state police department or the Federal Bureau of Investigation;
- (2) finance in government or the private sector; or
- (3) procurement in government or the private sector.

(e) The committee shall submit nominations of three (3) candidates to fill a vacancy and certify them to the governor not later than forty (40) days from the time the vacancy occurs. If it is known that a vacancy will occur at a definite future date, but the vacancy has not yet occurred, the governor shall notify the committee immediately of the pending vacancy, and the committee may, not later than sixty (60) days of the notice, make its nominations and submit to the governor the names of three (3) candidates nominated for the pending vacancy.

(f) The committee shall submit with the list of three (3) candidates to the governor a written evaluation of each candidate, based on the considerations stated in subsection (d). The list of candidates submitted to the governor may be publicly disclosed by the committee. The evaluations of candidates whose names have been submitted to the governor are confidential.

(g) The governor may appoint to the office one (1) of the three (3) candidates nominated by the committee for a vacancy, or the governor may reject all of the candidates. If the governor rejects all of the candidates, the governor shall notify the chair of the committee, and the committee shall certify the nominations of three (3) additional candidates to the governor not later than forty (40) days after receipt of the notice. The governor shall fill the vacancy in the office by appointment of one (1) of the additional candidates.

(h) The inspector general:

- (1) serves at the governor's pleasure; and
- (2) receives compensation set by the budget agency.

Sec. 4. (a) As used in this section, "committee" refers to the nominating committee established by subsection (b).

(b) A nominating committee is established to propose to the governor the names of candidates to fill vacancies in the office.

(c) The committee consists of the following members:

- (1) Three (3) members appointed by the governor.

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(2) One (1) member appointed by the president pro tempore of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the senate.

(5) One (1) member appointed by the minority leader of the house of representatives.

Not more than four (4) members of the committee may belong to the same political party. A member of the general assembly may not be a member of the committee.

(d) Each appointing authority shall certify the appointing authority's appointments to the secretary of state not later than ten (10) days after making the appointments.

(e) The term of a member of the committee is four (4) years beginning on the date the appointment is certified under subsection (c).

(f) The governor shall appoint a member of the committee to be the committee's chair.

(g) Whenever a vacancy occurs on the committee, the chair of the committee shall promptly notify the appointing authority who appointed the member whose position is vacant. The appointing authority shall appoint a new member not later than sixty (60) days after receiving notice of the vacancy. The term of the appointed member is for the unexpired term of the member whose position was vacated. An appointment to fill a vacancy must be certified to the secretary of state not later than ten (10) days after the appointment.

(h) After the names of members appointed to the committee have been certified to the secretary of state, the secretary of state shall, by regular mail, notify the committee members of their appointments.

(i) A member of the committee serves until the member's successor is appointed. A member may not be appointed to two (2) successive terms, unless the member has been appointed to fill a vacancy on the committee for less than three (3) years in which case the member is eligible, upon the expiration of that term, for a succeeding term.

(j) The committee shall meet as necessary to discharge its responsibilities under this chapter. The committee shall meet at the call of the chair or on the call of any four (4) members of the committee. Notice of a committee meeting must be given to each

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1 member of the committee by written notice mailed not later than  
 2 five (5) days before the date of the meeting. The notice must  
 3 contain the time and place of the meeting. Notice of a meeting is  
 4 not required if the committee designated the time and place of the  
 5 next meeting at its previous meeting.

6 (k) The committee shall hold its meetings at a place in Indiana  
 7 arranged by the chair.

8 (l) Four (4) members of the committee constitute a quorum. The  
 9 committee may act only at a meeting upon the affirmative votes of  
 10 at least four (4) committee members. The committee may adopt  
 11 rules under IC 4-22-2 for the conduct of its proceedings and the  
 12 discharge of its duties. These rules must include procedures by  
 13 which eligible candidates for a vacancy in the office may submit  
 14 their names to the committee.

15 (m) Each member of the committee is entitled to receive the  
 16 minimum salary per diem as provided in IC 4-10-11-2.1(b) while  
 17 performing the member's duties. A member is also entitled to  
 18 reimbursement for traveling expenses and other expenses actually  
 19 incurred in connection with the member's duties, as provided in the  
 20 state travel policies and procedures established by the department  
 21 of administration and approved by the state budget agency.

22 (n) The committee may employ investigators and such experts  
 23 as the committee considers necessary to carry out its functions and  
 24 purposes. The office and staff of the governor shall serve the  
 25 committee in performing its functions under this chapter.

26 (o) The expenses of the committee shall be paid from  
 27 appropriations made to the office.

28 Sec. 5. (a) The inspector general may appoint one (1) or more  
 29 deputy inspectors general. Each deputy inspector general serves at  
 30 the pleasure of the inspector general and shall perform duties that  
 31 are assigned by the inspector general. All deputy inspectors general  
 32 are state employees under IC 4-15-2.5. Salaries for deputy  
 33 inspectors general shall be set with the approval of the budget  
 34 agency.

35 (b) The inspector general may appoint professional, technical,  
 36 and clerical employees necessary for the effective and efficient  
 37 operation of the office. All employees appointed by the inspector  
 38 general are state employees under IC 4-15-2.5. Salaries for  
 39 employees appointed by the inspector general shall be set with the  
 40 approval of the budget agency.

41 Sec. 6. Not later than March 1 each year, the inspector general  
 42 shall publish an annual report summarizing the activities of the

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office during the previous calendar year. The annual report may not disclose the results of any investigation if the results are designated as confidential. Copies of the annual report shall be sent to the governor and the general assembly. The report sent to the general assembly must be in an electronic format under IC 5-14-6.

Sec. 7. The inspector general may:

- (1) adopt an official seal;
- (2) adopt rules under IC 4-22-2 for the conduct of the business of the office;
- (3) make and execute contracts or other documents with any governmental agency or any person necessary or convenient to accomplish the purposes of this chapter, including contracts for the provision of all or any part of the services the inspector general considers necessary for the management and operation of the office; and
- (4) recommend legislation to the governor and general assembly.

Sec. 8. (a) The inspector general shall do the following:

- (1) Manage the office.
- (2) Investigate the management and operation of the:
  - (A) office of the secretary of family and social services;
  - (B) Indiana department of administration;
  - (C) department of correction;
  - (D) department of workforce development; and
  - (E) bureau of motor vehicles.
 on the inspector general's own initiative to determine whether wrongful acts and omissions have been committed by the agencies listed in this subsection.
- (3) Receive complaints alleging wrongful acts and omissions.
- (4) Determine whether a complaint received under subdivision (3) alleges facts giving reasonable cause to investigate.
- (5) Upon investigating in response to a complaint received under subdivision (3), determine whether there is reasonable cause to believe that the wrongful act or omission alleged in the complaint has been committed or is being committed by an officer or employee of one (1) of the agencies listed in subdivision (2).
- (6) Report suspected crimes and wrongful acts or omissions committed by state officers or state employees of the agencies listed in subdivision (2) to:
  - (A) the governor; and

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(B) the appropriate state or federal prosecuting authority with jurisdiction over the matter, if there is reasonable cause to believe that a crime has occurred or is occurring.

(7) If appropriate, report a wrongful act or omission:

(A) to the ethics commission under IC 4-2-6; and

(B) to:

(i) the appropriate licensing agency; or

(ii) the appointing authority;

for possible disciplinary action against the officer or employee of an agency listed in subdivision (2) who is believed to have committed the wrongful act or omission.

However, the inspector general may not report a wrongful act or omission to a person under this subdivision if the appointing authority allegedly committed or is committing the wrongful act or omission.

(8) Report suspected crimes and wrongful acts or omissions that the inspector general becomes aware of in connection with an investigation of the agencies covered by this section and that were or are being committed by persons who are not state officers or state employees to:

(A) the governor; and

(B) other appropriate state or federal prosecuting authorities with jurisdiction over the matter, if there is reasonable cause to believe that a crime has occurred or is occurring.

However, the inspector general may not report a wrongful act or omission to a person under this subdivision if the person allegedly is committing the wrongful act or omission.

(9) Prepare a detailed report of each investigation that states:

(A) the basis for the investigation;

(B) the action taken in furtherance of the investigation; and

(C) whether the investigation revealed that there was reasonable cause to believe that a wrongful act or omission had occurred.

(10) Identify other state agencies that also are responsible for:

(A) investigating;

(B) auditing;

(C) reviewing; or

(D) evaluating the management and operation of the agencies listed in subdivision (2);

and negotiate and enter into agreements with the identified

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agencies to share information in order to avoid duplication of efforts.

(11) Develop and update for the inspector general's own guidance and the guidance of deputy inspectors general:

- (A) a working definition of wrongful act or omission; and
- (B) a manual of investigative techniques.

(12) Conduct studies of techniques of:

- (A) investigation;
- (B) detection; and
- (C) prevention or reduction of the risk;

of wrongful acts and omissions by employees of the agencies under this section.

(13) Consult with the agencies under this section and advise the agencies in developing, implementing, and enforcing policies and procedures that will prevent or reduce the risk of wrongful acts and omissions within the agencies.

(14) After detecting a wrongful act or an omission, review and evaluate the relevant policies and procedures of the agencies listed in subdivision (2) as to any changes that should be made in policies and procedures to prevent recurrences of similar wrongful acts or omissions.

(b) If a wrongful act or omission is identified during an investigation under subsection (a), the report required under subsection (a)(9) must:

- (1) identify the person who committed the wrongful act or omission;
- (2) describe the wrongful act or omission;
- (3) explain how the wrongful act or omission was detected;
- (4) indicate to whom the wrongful act or omission was reported; and
- (5) describe what the state agency in which the wrongful act or omission was being committed is doing to change its policies or procedures to prevent recurrences of similar wrongful acts or omissions.

**Sec. 9. In performing an investigation, the inspector general and deputy inspectors general may:**

- (1) administer oaths;
- (2) examine witnesses under oath; and
- (3) issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of books, records, papers, and other tangible things.

Upon the refusal of a witness to be sworn or to answer questions

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put to the witness, or if a person disobeys a subpoena, the inspector general or deputy inspectors general shall apply to a court for a contempt order, as in the case of disobedience to the requirement of a subpoena issued from the court or refusal to testify in court.

Sec. 10. (a) Except as otherwise provided in this section, the report of an investigation conducted by the inspector general or deputy inspector general is a public record under IC 5-14-3. The inspector general or deputy inspectors general, with the written approval of the inspector general, may designate all or part of a report as confidential if doing so:

- (1) preserves the confidentiality of matters made confidential by law;
- (2) appears reasonably necessary to protect the safety of a witness; or
- (3) avoids disclosure of investigative techniques that, if disclosed, would enable persons who have been or are committing wrongful acts or omissions to avoid detection.

Material designated as confidential under this section shall be marked clearly as being confidential.

(b) The inspector general shall provide a copy of each report of an investigation, including wholly and partially confidential reports, to the following:

- (1) The governor.
- (2) A prosecuting authority who may undertake criminal prosecution of a wrongful act or omission described in the report.
- (3) An ethics commission to which a wrongful act or omission described in the report was reported.
- (4) A licensing agency, an appointing authority, or a public or private employer that may take disciplinary action with regard to a wrongful act or omission described in the report.

(c) The inspector general may not provide a copy of a confidential part of the report of an investigation to a person under this section if the person allegedly committed the wrongful act or omission described in the report.

(d) The governor, prosecuting authority, ethics commission, licensing agency, appointing authority, or public or private employer who receives a report, all or part of which is designated as confidential, shall take all appropriate measures necessary to preserve the confidentiality of the report.

SECTION 2. [EFFECTIVE JULY 1, 2004] (a) There is appropriated to the office of the inspector general from the state

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- 1 general fund an amount sufficient to operate the office of the
- 2 inspector general for the period beginning July 1, 2004, and ending
- 3 June 30, 2005.
- 4 (b) This SECTION expires July 1, 2005.

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